

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

MFA.No. 943 of 2001()

OPMV.175/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM

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APPELLANT: PETITIONER

**K.V.ABOOBACKER, S/O.ABDU,
KARUPPAN VETTEL,
MUTHUKURUSI P O., PICHALAMUNDA,
TACHAMPARA VIA, MANNARKKAD TALUK
PALGHAT DIST.**

**BY ADV. SRI.T.M.SUNIL
SMT.S.CHITHRA**

RESPONDENTS: RESPONDENTS

- 1. SIDHI, S/O. KUNJUMHAMMED, NELLIKAVATTA VEEDU,
TACHAMPARA P.O., MACHAMKODE, MANNARKKAD.**
- 2. K.M.UNEENKUTTY S/O.MUHAMMED KUTTY
KARIMBANAKKAL HOUSE, MANNARKKAD.**
- 3. THE UNITED INDIA INSURANCE COMPANY ;TD.,
DIVISIONAL OFFICE, ARAFA BUILDING,.
COURT ROAD, MANJERI.**

BY ADV. SRI.A.R.GEORGE

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

J.B.KOSHY & V.GIRI, JJ.

M.F.A.No.943 of 2001

Dated this the 10th day of August, 2007.

JUDGMENT

The appellant/claimant met with a motor accident at the age of 38, on 9.4.1998. He claimed a compensation of Rs.2,25,000/-. The tribunal awarded only a compensation of Rs.49,242/- with 12% interest, though it found that the accident occurred due to the negligence of the driver of the vehicle insured by the 3rd respondent insurance company. Only the quantum of compensation is disputed in this appeal.

2. The injuries noted in Ext.A3 wound certificate is as follows:

"Multiple abrasion right forehead, lacerated wound 4 cm over forehead, swelling and tenderness over right elbow, sutured wound right little finger and right humerus. X-ray revealed fracture lower end of radius and fracture base of P1 of little finger and fracture of pisiform bone of right hand."

3. The discharge card issued from the hospital shows that he was admitted in the hospital for 14 days. Ext.A8 is the disability certificate which shows that he suffered comminuted intra-articular fracture lower end of radius(R) with fracture pisiform, compound

fracture proximal Phalanx(R) little finger and multiple lacerated wound. He was treated by closed reduction and cast for radius fracture and external fixation for phalangeal fracture. The doctor has certified 15% permanent disability for the right upper limb function.

4. According to the appellant/claimant, he was a carpenter by profession and was getting Rs.4,000/- per month. It was also stated that he was also doing home furniture business. He was maintaining a family and being an accident occurred in 1998, even an unskilled worker in Kerala would have got more than Rs.150/- per day in 1998. Taking into account the fact that he was a carpenter and doing furniture business, we assess the monthly income at Rs.3,000/- per month. It is true that the disability certificate shows that there is 15% disability and there is shortening of the hand. It is contended that in view of the compound fracture of the proximal phalanx(R) on the little finger, being a carpenter, his work is very much affected. The certificate speaks only regarding the injury on the little finger of the right hand. We, therefore, fix the disability at 5% especially because he is a carpenter. If that be so, since he was 38 years old at the time of accident, taking guidelines

from the second schedule, 13 can be taken as the multiplier. The compensation payable for disability and loss of earning power will be Rs.28,300/-. The tribunal has awarded Rs.12,600/- for loss of earning power and Rs.7,000/- for injuries. If that is deducted, additional compensation payable will be Rs.8,700/-. Even though the tribunal has reimbursed the actual medical bills of Rs.14,842/- and granted hospital expenses of Rs.1,400/-, considering the fact that he was an in-patient in a hospital for 14 days, we award Rs.1,000/- more. Thus the appellant will be entitled to get an additional compensation of Rs.9,700/-, which will be deposited by the 3rd respondent insurance company, with 7.5% interest from the date of application till the date of deposit. On deposit, the appellant is entitled to withdraw the same.

Appeal is partly allowed as above.

Sd/-
(J.B.KOSHY)
JUDGE

Sd/-
(V.GIRI)
JUDGE

sk/

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J.B.KOSHY & V.GIRI, JJ.

M.F.A.No.943 of 2001

JUDGMENT

10TH AUGUST, 2007.
